

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Adv. Pro. No. 08-01789 (CGM)

Plaintiff-Applicant,

SIPA Liquidation

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

(Substantively Consolidated)

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Chapter 7 Estate of Bernard L. Madoff,

Adv. Pro. No. 12-01273 (CGM)

Plaintiff,

v.

MISTRAL (SPC),

Defendant.

STIPULATION AND ORDER TO WAIVE ARGUMENT

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–*III*, and the estate of Bernard L. Madoff, under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 701–784, and defendant Mistral (SPC) (“Defendant,” and together with the Trustee, the “Parties”), by and through their respective undersigned counsel, stipulate and agree as follows:

WHEREAS, on August 15, 2022, Defendant filed a motion to dismiss the Trustee's amended complaint (the "Motion") [ECF No. 118], with a supporting memorandum of law [ECF No. 119]; on October 14, 2022, the Trustee filed an Opposition to Defendant's Motion [ECF No. 122] (the "Opposition"); and on November 14, 2022, Defendant filed a reply in further support of its Motion ECF No. 124 (the "Reply", and together with the Motion and Opposition, the "Briefing");

WHEREAS, pursuant to a notice of hearing [ECF No. 120], a hearing to consider the Motion was scheduled to be held on December 14, 2022, at 10:00 am; and

WHEREAS, the Parties have conferred and agree to rest on their papers and waive oral argument on the Motion.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Court will not hear oral argument on the Motion, and thus the hearing scheduled for 10:00 am on December 14, 2022 to consider the Motion is hereby cancelled and removed from the Court's calendar.
2. The Parties request that the Court issue its ruling based on the Briefing.
3. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and their entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

Dated: December 7, 2022
New York, New York

**WINDELS MARX LANE &
MITTENDORF, LLP**

By: /s/ Kim M. Longo
Robert J. Luddy
Kim M. Longo
Alex Jonatowski
156 West 56th Street
New York, New York 10019
Telephone: (212) 237-1000
rluddy@windelsmarx.com
klongo@windelsmarx.com
ajonatowski@windelsmarx.com

*Special Counsel to Irving H. Picard, Trustee
for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff
Investment Securities LLC and the
Chapter 7 Estate of Bernard L. Madoff*

O'MELVENY & MYERS LLP

By: /s/ Daniel S. Shamah
William J. Sushon
Daniel S. Shamah
Kayla Haran
7 Times Square
New York, New York 10036
Telephone: (212) 326-2000
wsushon@omm.com
dshamah@omm.com
kharan@omm.com

Attorneys for Defendant Mistral (SPC)

SO ORDERED:

**Dated: December 8, 2022
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**